

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RODERICK VANLOWEING RICKS,)	
)	
Petitioner,)	
)	
v.)	CRIMINAL NO. 5:06-CR-61 (MTT)
)	CIVIL NO. 5:13-CV-90170 (MTT)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

ORDER

Before the Court is the Magistrate Judge's Recommendation (Doc. 161) on the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence (Doc. 159) pursuant to 28 U.S.C. § 2255. The Magistrate Judge recommends denying the Petitioner's Motion because the Petitioner previously filed an unsuccessful Section 2255 Motion in 2009 (Docs. 88, 148), and consideration of a successive Section 2255 motion is precluded absent prior authorization by the Eleventh Circuit pursuant to 28 U.S.C. § 2255(h). The Petitioner filed an Objection to the Magistrate Judge's recommendations.

Pursuant to 28 U.S.C. § 636(b)(1), the Court has thoroughly considered the Objection and has made a de novo determination of the portions of the Recommendation to which the Petitioner objects. The Petitioner argues that he does not need prior authorization from the Eleventh Circuit because he can succeed on the merits of his Motion. No such exception to the statutory bar against second or successive motions exists. "A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain--

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” 28 U.S.C. § 2255(h). The Petitioner admits that he has not sought certification.

The Recommendation is adopted and made the order of this Court, and the Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence is **DENIED**. Further, the Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Therefore, a certificate of appealability is also **DENIED**.

SO ORDERED, this 5th day of June, 2013.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT